

ORDINANCE NO. 1852

AN ORDINANCE OF THE LODI CITY COUNCIL
AMENDING LODI MUNICIPAL CODE CHAPTER 16.40 –
REIMBURSEMENTS FOR CONSTRUCTION – BY
REPEALING AND REENACTING SECTION 16.40.050,
“REIMBURSEMENT AGREEMENTS,” IN ITS ENTIRETY

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Chapter 16.40 – Reimbursements for Construction – is hereby amended by repealing and reenacting §16.40.050, “Reimbursement Agreements,” in its entirety, to read as follows:

16.40.050 Reimbursement Agreements

- A. Within sixty days of receipt of a completed application, the public works director shall prepare a reimbursement agreement containing the following provisions:
1. The amount of reimbursable costs shall include construction costs less any applicable credits plus ten percent for administrative and engineering costs. Applicable city engineering and processing fees shall also be added. Costs of financing, bonds, or other applicant costs shall not be included.
 2. The total reimbursable cost shall be apportioned to the benefiting properties as appropriate. Costs of transitions, utility stubs, or other minor work shall not be apportioned to adjacent property.
 3. The reimbursable amount shall be recalculated annually to include an amount attributable to interest, using the Engineering News Record 20 Cities Construction Cost Index as of the end of the year. The reimbursable amount for subsequent years shall be the prior year reimbursable amount less any reimbursements made during the year, all multiplied by the percentage change in the index over the year.
 4. The agreement shall provide that the city will collect the appropriate charge from the properties identified in the agreement and reimburse the applicant or the applicant's heirs, successors or assigns, for a period of fifteen years from the date of the agreement only. Reimbursement agreements to recover funds advanced by city for projects shall expire after fifteen years; reimbursement charges will not be collected after that time except as set forth in Paragraph 5 of this section.
 5. All reimbursement agreements in effect prior to October 5, 2011, are hereby extended ten years from their original expiration date, giving them a life of twenty-five years.
- B. Prior to the adoption of a resolution approving the reimbursement agreement or extension of a reimbursement agreement the city shall within ninety days of receipt of a completed application conduct a public hearing as follows:
1. At least ten days prior to the date and time set for the hearing before the city council, give a notice by first class mail, postage prepaid to the addresses as shown on the latest equalized assessment roll of San Joaquin County, to the owners of each parcel identified in the reimbursement agreement as benefited.

2. The notice shall state the date, time, and location set for such hearing.
3. Include in such notice to property owners as required under (1) above a statement of the nature of the improvements costs as provided in subsection A of this section, and list of the addresses or a map delineating all parcels identified in the reimbursement agreement as benefited.
4. The hearing on such reimbursement agreement shall take place before the city council, at which time all interested parties shall be heard. The council shall determine what properties are benefited, the costs and a fair method of allocation of costs to the properties benefited, and an apportionment of such costs.

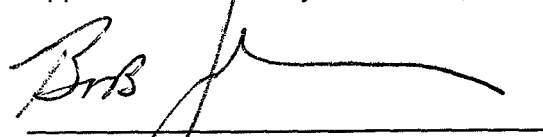
SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 6. This ordinance shall be published pursuant to law and shall become effective 30 days from the date of passage and adoption.

Approved this 19th day of October, 2011



Bob Johnson
Mayor

ATTEST:


RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1852 was introduced at a regular meeting of the City Council of the City of Lodi held October 5, 2011, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held October 19, 2011, by the following vote:

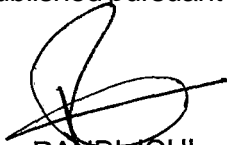
AYES: COUNCIL MEMBERS - Hansen, Katzakian, Mounce, Nakanishi,
and Mayor Johnson

NOES: COUNCIL MEMBERS - None

ABSENT: COUNCIL MEMBERS - None

ABSTAIN: COUNCIL MEMBERS - None

I further certify that Ordinance No. 1852 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.



RANDI JOHL
City Clerk

APPROVED TO FORM:



D. STEPHEN SCHWABAUER
City Attorney